

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIE HARBOUR,

Defendant.

8:22-CR-191**ORDER ON COMPASSIONATE
RELEASE**

This matter is before the Court on the defendant's Motion for Compassionate Release.

Filing 80. Because the defendant has not exhausted his administrative remedies pursuant to [18 U.S.C § 3582\(c\)\(1\)\(A\)](#), the Court must deny the Motion without prejudice.

[18 U.S.C § 3582\(c\)\(1\)\(A\)](#) provides in relevant part, "The court may not modify a term of imprisonment once it has been imposed except . . . upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility." "This requirement is a mandatory claim-processing rule." *United States v. Houck*, 2 F.4th 1082, 1084 (8th Cir. 2021). Courts in this circuit have consistently held that defendants "bear[] the burden of showing that he exhausted his administrative remedies with the BOP before filing a compassionate-release motion." *United States v. Clark*, No. 11-3034, 2020 WL 4507325, at *3 (N.D. Iowa Aug. 5, 2020) (quoting *United States v. Kinley*, No. 16-10018, 2020 WL 2744110, at *2 (W.D. Ark. Apr. 17, 2020)). Although the defendant checked a box stating "Yes, I submitted a request for compassionate release to the warden on (date)," the defendant did not provide the date he submitted his request, nor did he provide any evidence that he ever did submit a request. Filing 80 at 3. Because the defendant has not borne his burden of showing that he has exhausted his administrative remedies, the Court cannot rule on the merits of

his Motion. The Court must “dismiss unexhausted compassionate-release motions without prejudice.” *Houck*, 2 F.4th at 1084. Accordingly,

IT IS ORDERED that the defendant’s Motion for Compassionate Release, Filing 80, is denied without prejudice.

Dated this 11th day of March, 2025.

BY THE COURT:



Brian C. Buescher
United States District Judge